

E-132/SA-88-270ESTABLISHING TIME PERIODS FOR COMMENTS AND RESPONSES TO  
ADMINISTRATIVE LAW JUDGE'S ORDER DENYING SUMMARY JUDGEMENT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of a Complaint Regarding the  
Annexation of a Portion of the Service  
Territory of People's Cooperative Power  
Association by the City of Rochester

ISSUE DATE: January 19, 1989

DOCKET NO. E-132/SA-88-270

ORDER ESTABLISHING TIME PERIODS  
FOR COMMENTS AND RESPONSES TO  
ADMINISTRATIVE LAW JUDGE'S  
ORDER DENYING SUMMARY  
JUDGEMENT

PROCEDURAL HISTORY

On December 21, 1988, the Minnesota Public Utilities Commission (Commission) received an Order Denying Summary Judgement from the Administrative Law Judge (ALJ) hearing this matter, Allan W. Klein. The Order was in response to a Motion from the City of Rochester (City) for Summary Denial of Compensation. The motion requested that the ALJ certify his decision to the Commission, and the Order Denying Summary Judgement did certify the ALJ's denial to the Commission.

The Commission met on Thursday, January 12, 1989 to establish a procedure to address the ALJ's Order Denying Summary Judgement.

FINDINGS AND CONCLUSIONS

The Commission finds that the ALJ's Order Denying Summary Judgement raises significant legal issues. The certified order would allow a contested case hearing to proceed which would permit People's Cooperative Power Association (People's) to present evidence on the amount of compensation it should receive from the City for the City's taking of a part of People's service area.

The Commission finds that neither Minnesota Statutes nor Minnesota Rules establish procedures for an agency to follow in addressing certifications of decisions by ALJs.

At the January 12, 1989 meeting, Commission staff proposed a 14 day period for the parties to comment on the ALJ's Order Denying Summary Judgement, followed by a 7 day period for responses to those comments. The parties agreed to these time periods.

The Commission finds these time periods are reasonable. They provide the parties with adequate time to address the legal and procedural issues raised by the ALJ's Order Denying Summary Judgement without unduly delaying consideration of this matter. The Commission will so order.

### ORDER

1. Comments on the Administrative Law Judge's Order Denying Summary Judgement in this matter shall be filed with the Commission and served on all parties no later than February 2, 1989. Responses to those comments shall be filed with the Commission and served on all parties no later than February 9, 1989.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)